

**BOARD OF ASSESSMENT APPEALS,  
STATE OF COLORADO**  
1313 Sherman Street, Room 315  
Denver, Colorado 80203

**Docket No.: 60665**

Petitioner:

**ROBERT G. AND JANET D. BOARDMAN,**

v.

Respondent:

**DOUGLAS COUNTY BOARD OF  
COMMISSIONERS.**

**ORDER DISMISSING APPEAL**

**THIS MATTER** was heard by the Board of Assessment Appeals on January 22, 2013, Debra A. Baumbach and Gregg Near presiding. Petitioner, Robert G. Boardman, appeared pro se on behalf of Petitioners. Respondent was represented by Robert D. Clark, Esq. Petitioners are protesting the 2009 and 2010 actual values of the three parcels identified by the Douglas County Schedule Nos. R0085761, R0086481, and R0086490.

On January 18, 2013, the Board received Respondent's Motion to Dismiss Petitioners' appeal concerning both the 2009 and 2010 tax years. The Board did not receive a response from Petitioners. At the outset of the hearing, the Board heard Respondent's arguments pertaining to the Motion to Dismiss.

As to the 2009 tax year, Mr. Clark testified that the Board of Assessment Appeals has already adjudicated the 2009 taxes for the subject property, hence Petitioners were precluded from taking a "second bite at the apple" by appealing the same tax year's valuation twice. On May 19, 2009, Petitioners filed a protest with respect to their 2009 property tax valuation and a Notice of Determination was issued on August 21, 2009. Petitioners appealed the County's value determination to the BAA. Subsequently, the BAA adjudicated Petitioners' protest concerning the 2009 valuation, granting a reduction of value to Petitioners. On December 29, 2011, Petitioners re-appealed their 2009 property values, this time via the abatement petition to the BAA, arguing, once again, that the subject property was overvalued.

Pursuant to Section 39-10-114(10)(a)(I)(D), C.R.S., overvaluation claims under the abatement procedure are prohibited if a taxpayer has previously challenged the valuation for that tax year under

the protest and adjustment procedure. For tax year 2009, Petitioners have previously challenged the 2009 valuation under the protest and adjustment procedure. Petitioners' current abatement appeal for tax year 2009 is based on overvaluation claims. Accordingly, pursuant to Section 39-10-114(10)(a)(I)(D), C.R.S., this Board is without jurisdiction to hear Petitioners' protest pertaining to the 2009 valuation of the subject property.

As to tax year 2010, Respondent argued that Petitioners' appeal for 2010 tax year should be dismissed because the previously-determined subject's value for 2009 must remain the same for 2010, absent "unusual conditions," as defined by Section 39-1-104(11)(b)(I), C.R.S. Pursuant to the statute, the base-year valuation of real property must remain the same for the intervening year, if no statutorily-defined conditions affected the property. Mr. Clark enumerated all of the unusual conditions contemplated by the statute and indicated that none of those conditions applied to the subject. Accordingly, Mr. Clark concluded that Petitioners could not challenge the 2010 value of the subject because the subject's 2010 intervening year value should remain the same as the subject's 2009 base year value.

The Board also heard testimony from Mr. Boardman. Mr. Boardman confirmed that there were no unusual conditions on the property that could justify reduction of the subject's 2010 value from the value established for the 2009 base year. Mr. Boardman testified that the car repair shop located on the subject parcel was taken out of service and the shop-related portion of Petitioners' property was re-classified from commercial to residential. That change, however, came into effect as of January 1, 2013, which is beyond the scope of Petitioners' 2009-2010 appeal.

Based on the testimonies from both parties, and in accordance with Section 39-1-104(11)(b)(I), C.R.S. , the Board determined that no unusual condition existed that could justify the adjustment of 2010 value of the subject from the 2009 base year value previously established by the Board.

**ORDER:**

The Board finds that Petitioners' appeal is precluded by Sections 39-10-114(10)(a)(I)(D) and 39-1-104(11)(b)(I), C.R.S.

The appeal is dismissed.

**APPEAL:**

If the decision of the Board is against Petitioner, Petitioner may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of Section 24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-five days after the date of the service of the final order entered).

If the decision of the Board is against Respondent, Respondent, upon the recommendation of the Board that it either is a matter of statewide concern or has resulted in a significant decrease in the total valuation for assessment of the county wherein the property is located, may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provision of Section 24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-five days after the date of the service of the final order entered).

In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law when Respondent alleges procedural errors or errors of law by the Board.

If the Board does not recommend its decision to be a matter of statewide concern or to have resulted in a significant decrease in the total valuation for assessment of the county in which the property is located, Respondent may petition the Court of Appeals for judicial review of such questions.

Section 39-10-114.5(2), C.R.S.

**DATED and MAILED** this 11th day of February, 2013.

**BOARD OF ASSESSMENT APPEALS**

*Debra A. Baumbach*

Debra A. Baumbach

*Gregg Near*

Gregg Near

I hereby certify that this is a true and correct copy of the decision of the Board of Assessment Appeals.

*Milla Crichton*

Milla Crichton

